

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.  
★ 06-03-06 ★

-----X  
NANDO L. HERNANDEZ,

Plaintiff,

-against-

C.O. JONES 17628,

Defendant.  
-----X

ROSS, United States District Judge.

NOT FOR PRINT OR **BROOKLYN OFFICE**  
ELECTRONIC PUBLICATION

**MEMORANDUM AND ORDER**  
06-CV-3738 (ARR)

On July 18, 2006, plaintiff Nando Hernandez, filed this *pro se* action pursuant to 42 U.S.C. § 1983 seeking to recover unspecified damages for injuries allegedly sustained by plaintiff while incarcerated at Rikers Island. By Order dated September 12, 2006, the Court directed plaintiff to file an amended complaint to state, *inter alia*, a claim under the Eighth Amendment within thirty (30) days of the entry of the Order. Plaintiff has failed to respond to the Court's September 12, 2006 Order.

In an abundance of caution, the Court grants plaintiff an additional thirty (30) days from the entry of this Order to file an amended complaint. Plaintiff is once again directed to set forth facts to meet the subjective and objective components of an Eighth Amendment violation and to detail the injuries he suffered and the care he received. Plaintiff is further directed to state the amount of damages he is seeking.

Plaintiff is advised that any amended complaint he files will completely replace the original complaint. The amended complaint must be captioned as an "Amended Complaint" and bear the same docket number of this Order. No summons shall issue at this time and all further proceedings shall be stayed for thirty (30) days for plaintiff to comply with this Order. If plaintiff

fails to amend his complaint within thirty (30) days as directed by this Order, the Court shall dismiss this complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). The Clerk of Court is directed to mail a copy of the Court's September 12, 2006 Order to plaintiff with the instant Order. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

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ALLYNE R. ROSS  
United States District Judge

Dated: Dec. 6, 2006  
Brooklyn, New York